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On behalf of:

The American Public Transportation Association (APTA)

***“Ensuring the Efficiency, Effectiveness, and Transparency of Homeland Security Grants
(Part II): Stakeholder Perspectives”***

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Good morning Chairman Bilirakis, Ranking Member Richardson and members of the Subcommittee. My name is Michael DePallo and I thank you for the opportunity to offer my testimony. I am the Director and General Manager of the Port Authority Trans-Hudson Corporation, or PATH, which is a subsidiary of The Port Authority of New York and New Jersey. PATH is the seventh largest heavy rail operator in the nation, providing 76 million passenger trips per year. It is the primary transit link between Manhattan, the hub of the world financial market, and neighboring New Jersey urban and suburban communities. Today I am testifying as a representative of public transportation systems across our country as I have the privilege of serving as the Chairman of the Security Affairs Steering Committee of the American Public Transportation Association (APTA) as well as Chair of the Mass Transit Sector Security Coordinating Council (SCC). The Committee and Council include representatives from a number of high-risk, Tier I transit agencies from across the country which collectively inform and guide our views. In accordance with the National Infrastructure Protection Plan, APTA has been tasked by Department of Homeland Security (DHS) to administer the on-going activities of the Mass Transit Sector Coordinating Council (SCC). I am honored to lead such groups.

ABOUT APTA

APTA is a nonprofit international association of nearly 1,500 public and private member organizations, including transit systems and commuter, intercity and high-speed rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA members serve the public interest by providing safe, efficient, and economical public transportation services and products. More than ninety percent of the people using public transportation in the United States and Canada are served by APTA member systems.

Need for Continued Partnership

Let me start by clearly stating that the safety and security of our public transportation systems depends on a mutual commitment of Congress, our federal agency partners and public transportation providers to work together in a strong and effective collaborative relationship. As partners, we must work together but also operate efficiently and strategically in our respective roles.

Congress

The transit industry asks that you carefully consider the significant security investment needs that persist for our agencies, our employees and the riders we serve. We are very concerned about the recent decline in transit security funding where, presently in FY2012, we see an allocation of less than \$90 million for transit security. This level is woefully short of the industry's capital needs, and not enough to just address needs at my own agency. As recently as FY2009, federal funding for transit security was set at nearly \$400 million. In 2010, an APTA survey of its members found security investment needs in excess of \$6.4 billion nationwide. These are funds that our agencies simply do not have, as overall funding constraints have led to service cuts, personnel layoffs and fare increases. While there is no indication that our collective security concerns have diminished and the backlog of needed projects continues to grow, federal security grant funds have declined precipitously.

Many have researched, written and even offered testimony before this Subcommittee on the history of terrorist attacks, most notably the work of the Federally funded and chartered, independent Mineta Transportation Institute (MTI), which has documented more than 2,000 separate attacks on surface transportation – 1,223 involving bombs and incendiaries – since 1970. These attacks caused 6,190 deaths and approximately 19,000 injuries.

Additionally, the Government Accountability Office (GAO), along with the TSA Office of Intelligence, the TSA Office of the Inspector General and the Director of the National Counterterrorism Center (NCTC) have reported on or testified to Congress that public transportation in America remains vulnerable to terrorist attack, that al-Qa'ida remains interested in targeting the sector, and that more needs to be done to prevent and prepare for such a potential attack. Late last year the NCTC testified that the "al-Qa'ida core believed targets worthy of the group's focus included prominent transportation, infrastructure, economic, and political targets." There is wide agreement that public transportation systems continue to be desired terrorists targets. While we have been very fortunate to date in not having a terrorist attack carried out in our transit systems, we have indeed foiled recent plots and arrested individuals who intended to attack our systems. We believe it is appropriate that the funding commitment to fortifying our systems match the recognized risks and threats.

Department of Homeland Security

To our agency partners within DHS, I am pleased that many working relations between transit agencies and DHS divisions have improved. Open lines of communication must continue and federal agency funding priorities, instruction and expectations of grant performance must be clear and consistent. These directives should also reflect the stated concerns, desires and challenges of the industry; however, I would respectfully suggest this is not the case in regards to various elements of the FY2012 TSGP Guidance. For example, the guidance institutes a new 24-month grant period of performance for all projects. This is a reduction from the previous 3-5 year allowable expenditure period. I certainly appreciate the concerns regarding unexpended TSGP dollars as we all desire that security projects be implemented in a timely fashion in order to provide the protections they are designed for. However, immediately reducing the time allotted to expend funding without fully addressing widespread agency administrative and grantee implementation hurdles seems counterproductive to efforts to expedite project completion. Also, as many security enhancement capital projects require multiple years to complete, a reduction in the time allotted to expend funding would also compel many grant recipients to shift funding to operational expenses versus capital

infrastructure security projects. This would not be in the best interest of fortifying our systems against attacks, as the majority of the security needs identified in APTA's survey relate to capital projects.

Additionally, the FY2012 grant guidance states that this year's funding priorities will be based on a pre-designated "Top Transit Asset List" or TTAL. Some PATH assets are included on the TTAL and I would welcome this added benefit for funding consideration from this risk-based approach. APTA has testified previously that security investment decisions should be risk-based. However, speaking on behalf of the larger industry, including thousands of assets not listed on the TTAL, I recognize that this narrower funding approach could preclude other important security improvements from receiving funding consideration with such limited transit security dollars available. This underscores the need for increased funding. We must continue to work together to ensure that DHS has the resources to meet the extensive needs of systems across the country.

Transit Agencies

Threats against public transportation are growing in number, complexity and scale. To prevent and combat these threats, we must continue to employ cutting edge technology and processes to maintain and operate our security resources and assets. Equally as important, we must also establish and sustain sound, efficient administrative, planning and management practices. Many may not see the operational-administrative connection in securing our transit systems, but the deployment of well trained and equipped law enforcement officers or K-9 units, or operation of high tech surveillance equipment, or the construction of a large-scale infrastructure fortification projects come only after months and months of planning, development, and administrative work. Planning, procurement and project management are all precursors to successful security projects as well as sound evaluation and grant management systems. Public transportation systems are committed to effective and well-planned implementation of security initiatives and to serve as good partners in our national fight against terrorism with the federal government and Congress.

Key Implications of the New National Preparedness Grant Program

As you know, the Department of Homeland Security has proposed to implement a new National Preparedness Grant Program (NPGP) along with several other programmatic changes to the current TSGP. The new program and proposed changes have raised concern within the industry. The most drastic change is the elimination the TSGP – the exclusive pool of funding for our nation's public transportation systems which, we all agree, are highly desired terrorist targets. Additionally, under the proposal, while transit agencies would be eligible for security funding, they would have to apply for funding through their State Administrative Agency (SAA), and compete in this process with other state security priorities. This is a radical shift from the current program, where transit agencies are authorized to apply directly to DHS. We believe, under the proposed approach, that sufficient funding would not consistently reach transit agencies and severely dilute their security programs. As the leader of a multi-state agency, I also foresee a challenge coordinating with SAA's when an individual system's operations span multiple states, as is the case with many of large transit properties. This administrative change could actually add to delays in project implementation. We strongly urge DHS to reconsider this proposal and maintain a sufficiently-funded, segregated grant program for surface transportation security where transit agencies may prioritize their needs and directly apply for federal funding.

The stated concept in making these changes through the new NPGP is “to develop, sustain, and leverage core capabilities across the country in support of national preparedness, prevention and response.” The transit industry stands ready and willing to coordinate with our partners in the emergency management and preparedness communities in planning appropriate responses to our nation’s natural and man-made emergencies. However, this was not the primary purpose behind Title 14 of the Implementing Recommendations of the 9/11 Commission Act (or the “National Transit Systems Security Act of 2007”). That title of the 9/11 Commission Act was enacted with the purpose of improving Federal investment in transit security and the TSGP was created with the principal purpose of directing and increasing capital investments to fulfill the requirements of the security plans and risk assessments developed under the authority of the Act. Emergency preparedness planning, exercises, training and equipment were all eligible uses of the funds authorized under the Act. However, they were subsets of a larger list of eligible uses principally focused on enhancing the security of the high-risk transit sector. APTA and its members urge this Committee and the Congress to preserve the unique focus that the prior legislation placed on public transportation security investments by reauthorizing the transit and rail security provisions of the 9/11 Commission Act.

As DHS and many others in the homeland security policy arena discuss issues of resiliency and “all hazards” approaches to security and emergency management policy, transit agencies are increasingly looked to as instruments for disaster response and evacuation, and as such have repeatedly responded to major incidents ranging from 9/11 to Hurricanes Katrina and Rita. Congress and the Administration should pursue policies which recognize the role of public transportation agencies (and their potential needs) in “all-hazards” response to the resiliency question, but do not minimize the other important needs that are specific and unique to our critical infrastructure.

Conclusion

As I conclude, let me thank you all for the opportunity to testify on these critical homeland security issues. There is no greater priority for public transportation systems than the safety and security of our passengers and workers. I urge you not to wait for the “wake-up” call of an attack on our systems to provide us the support we need. Transit systems across the country continue to stand ready, committed and vigilant in utilizing available resources efficiently to protect our systems and our riders. We urge you to sustain the critical partnership between transit agencies, Congress and the Department of Homeland Security that helps to keep our nation safe and moving toward economic prosperity.